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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,804	12/30/2003	Peter J. Myers	20014/38782	2126

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EXAMINER

PHAN, HAU VAN

ART UNIT PAPER NUMBER

3618

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/748,804	MYERS ET AL.	
	Examiner	Art Unit	
	Hau V Phan	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17-22 and 24-49 is/are rejected.
- 7) ☒ Claim(s) 15-16, 23, 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/13/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 1-49 in the reply filed on 7/18/2005 is acknowledged.
2. Claim 50 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/18/2005.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 35-36, 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 35, the phrase "wherein the removable support is a walk behind walker which does not include a seat" is not clear, whether the removable support is movable or not. The term "walk" is an act or instance of going on foot.

Regarding claim 36, The phrase "a wheeled walker not including a seat" and "a walker alternative comprising a seat, a base and the wheeled walker" are unclear, whether the wheeled walker belonging to a walker or not.

Regarding claim 39, the phrase "removing a stray from a wheel walker with out removing the tray from a base supporting the wheeled walker" is not sure how many tray, whether the tray from a wheel walker is the same with the tray from a base.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-4, 7-8, 12-14, 17-22, 28-42 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanchez (4,480,846).**

Sanchez in figures 1-8, discloses a baby-walker, which can be a child entertaining apparatus comprising a base (28), a seat (25) and a wheel walker (10) to at least partially support the seat above the base. The wheel walker being removable from the base. The wheeled walker includes at least one wheel (16) in contact with the base when the wheeled walker at least partially supports the seat above the base.

Regarding claim 2, Sanchez discloses the seat, which is rotatable relative to the base.

Regarding claim 3, Sanchez discloses the seat comprising a fabric or plastic seat supported within a ring.

Regarding claim 2, Sanchez discloses the seat, which is adjustable to adjust a distance between the seat and the base.

Regarding claim 7, Sanchez discloses the wheel walker comprising a tray (21).

Regarding claim 8, Sanchez discloses the tray, which is at least partially supported by the wheeled walker.

Regarding claim 12, Sanchez discloses the wheeled walker, which is removed from the base. The tray can be disposed above the base to permit a child seated on the floor to play with the at least one toy.

Regarding claim 13, Sanchez discloses the tray, which is coupled to the base by an arm.

Regarding claim 14, Sanchez discloses the tray, which is pivotably coupled to the arm.

Regarding claim 17, Sanchez discloses the upper portion of the arm, which is pivotably coupled to the tray and the lower portion of the arm is pivotably coupled to the base.

Regarding claims 18-19, Sanchez discloses the arm having an upper portion and a lower portion, at least one of the upper and lower portions being rotatable relative to another of the upper and lower portions. Wherein the upper and lower portions are rotatable about a longitudinal axis of the arm.

Regarding claim 20, Sanchez discloses a child entertaining apparatus comprising a base (28a), a seat (24a) and a wheeled walker (13a) to at least partially support the seat above the base. The wheeled walker being removable from the base, wherein the wheeled walker includes wheels (46) and the base includes receptacles (50) for receiving the wheels of the wheeled walker.

Regarding claim 21, Sanchez discloses the receptacles substantially prevent the wheeled walker from rolling on the wheels.

Regarding claim 22, Sanchez discloses springs or flexible strap (52) to permit bouncing movement between the seat and the base.

Regarding claim 28, Sanchez discloses the wheeled walker comprising at least one leg.

Regarding claim 29, Sanchez discloses the wheeled walker further comprising an upper frame coupled to the at least one leg.

Regarding claim 30, Sanchez discloses a handle (a top table peripheral can be used as a handle) located to be gripped by a standing child.

Regarding claim 31, Sanchez discloses the handle is movable from a stored position to a use position.

Regarding claim 32, Sanchez discloses a child entertaining apparatus comprising a base (11), a seat (25) and a support (10) to at least partially support the seat above the base. The support has wheels (16) and being removable from the base to permit rolling of the wheels on a floor. Sanchez also discloses a mechanical fastener (31), which fastened to the support to removably secure at least one of the wheels vertically above the base.

Regarding claim 33, Sanchez discloses a child entertaining apparatus comprising a base (28), a tray (21) pivotably coupled to the base and a removable wheeled support (13) positionable between the base and the tray to support the tray above the base,

wherein the removable support cannot rotate relative to the base when the removable support is supported on the base.

Regarding claim 34, Sanchez discloses a child entertaining apparatus comprising base (28), a seat (25) pivotably coupled to the base and a removable support (13) positionable between the base and the seat to support the seat above the base. Wherein the removable support can be used to help a child to walk.

Regarding claim 35, Sanchez discloses an apparatus comprising a base (28), a tray (21) and a hinged arm (22) fixedly joining the tray to the base such that the tray is movable between a first height above the base and a second height above the base. Sanchez also discloses a walker (10) positionable on the base to support tray at the first height (the walker mounted to the base consider a first height), wherein the hinged arm cannot support the tray at the first height without the assistance of the walker such that when the walker is removed from the base, the tray is located at the second height (as broadly recite, the hinge cannot support the tray when the tray is move from the second height to the first height).

Regarding claim 36, Sanchez discloses a child entertaining apparatus comprising a wheeled walker (10) for use by a child able to stand. The wheeled walker is not including a seat. Sanchez also discloses a walker alternative comprising a seat (25), a base (28), and the wheeled walker, wherein the wheeled walker at least partially supports the seat above the base.

Regarding claim 37, Sanchez discloses the structure, which can be used the same method by placing a wheeled walker (13) on a base (28) to substantially prevent

movement of the walker relative to the base and positioning a seat (25) above the base such that the seat is at least partially supported by the wheeled walker.

Regarding claim 38, Sanchez discloses the structure, which can be used the same method by securing the seat to the wheeled walker.

Regarding claim 39, Sanchez discloses the structure, which can be used the same method to disassembling a child entertaining apparatus comprising step of removing a tray of the child entertaining apparatus from a wheeled walker without removing the tray from a base supporting the wheeled walker and removing the wheeled walker from the base of the child entertaining apparatus.

Regarding claim 42, Sanchez discloses the structure, which can be used the same method by using a wheeled walker as support to at least partially support a set above a base and removing the wheeled walker from the seat and the base to use the wheeled walker as an aid in teaching a child to walk by removing the hinge arm and child can hold one end of the wheeled walker to walk.

Regarding claim 44, Sanchez discloses a child entertaining apparatus comprising a base (28) having a perimeter, a seat (25) and a wheeled walker (10) to at least partially support the seat above the base. The wheel walker being removably securable within the perimeter of the base.

Regarding claim 45, Sanchez discloses a child entertaining apparatus comprising a base (28), a seat (25), a wheeled walker (10) to at least partially support the seat above the base. The wheeled walker being removable from the base and a tray (21) fixedly secured to the base and removably secured to the wheeled walker.

Regarding claim 46, Sanchez discloses when the wheeled walker, which is removed from the base, the tray is removed from the wheeled walker and disposed above the base to permit a child seated on the floor to play with at least one toy located on the tray.

Regarding claim 49, Sanchez discloses a child entertaining apparatus comprising a base (28), a seat (25) and a support (13) to at least partially support the seat above the base. The support has wheels (16) and the support being removable from the base to permit rolling of the wheels on a floor, wherein the wheels carry weight when the support is mounted on the base.

7. Claims 43 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Meeker et al. (6,299,247).

Meeker et al. in figure 1, discloses an apparatus comprising a rockable base (54) and lock out mechanism to selectively substantially prevent rocking of the base. The lock out mechanism includes a leg (86) carrying a state message and the base defining a window positioned to display the state message when the lock out mechanism is in a predetermined state associated with the state message. Meeker et al. also disclose a seat (26) and a tray (38) and a wheeled walker (16) removably mounted inside the base to at least partially support the tray above the base.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez (4,480,846) as applied to claim 1 above, and further in view of Sudo (3,796,430).

Sanchez discloses the seat, but fails to show a shortening mechanism.

Sudo in figures 1-2, teaches a baby walker comprising a seat (4) including a shortening mechanism. The shortening mechanism includes a buckle, a first belt having a first end fixed to the seat and a second end coupled to the buckle and a second belt having a first end fixed to the seat and a second end coupled to the buckle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat of Snachez with the baby walker having a seat including a shortening mechanism as taught by Sudo in order to adjust the height of the seat.

10. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez (4,480,846) as applied to claim 8 above, and further in view of Perego (5,071,149)

Snachez discloses the tray, but fails to show the tray is removably secured to the wheel walker.

Perego in figure 2, teaches a go cart for children comprising a tray (15), which is removably secured to the cart. The tray comprises at least one toy coupled to the tray. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wheel walker of Snachez with the go cart for children having a

removably tray, which includes at least one toy as taught by Perego in order to satisfy every play and cognitive requirement of the child.

11. Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez (4,480,846) as applied to claim 1 above, and further in view of Meeker et al. (6,299,247)

Snachez discloses the base, but fails to show the base comprising a domed surface beneath the seat.

Meeker et al. in figure 1, teach a child exercise rocker comprising a base (54) having a domed surface. The base is rockable and has a lock out mechanism (86) to prevent rocking. The lock out mechanism includes a leg carrying a state message and the base define a window positioned to display the state of message when the lock out mechanism is in a predetermined state associated with the state message. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Snachez with the child exercise rocker having a base with a domed surface as taught by Meeker et al. in order to provide a base that can be rocked in any directions.

Allowable Subject Matter

12. Claims 15-16, 23 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
Primary Examiner
Art Unit 3618

Hau Phan
8/20/05